



10 AUG 2007

Wiggin and Dana LLP
Attention: Patent Docketing
One Century Tower, P.O. Box 1832
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In re Application of	:	
JUSKEY et al.	:	
U.S. Application No. 10/563,172	:	
PCT No.: PCT/US04/04676	:	
It. Filing Date: 17 February 2004	:	DECISION ON PETITION
Priority Date: 21 February 2003	:	
Attorney Docket No.: 102402-200	:	
For: LEAD FRAME WITH INCLUDED	:	
PASSIVE DEVICES	:	

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 02 August 2007 to accept the application without the signature of joint-inventor, Lawrence R. Thompson.

BACKGROUND

On 17 February 2004, applicants filed international application PCT/US04/04676, which claimed priority of an earlier application filed 21 February 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 21 August 2005.

On 30 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment; and a petition under 37 CFR 1.137(b).¹

On 10 January 2007, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 March 2007, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 10 April 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

¹Applicants' petition to revive under 37 CFR 1.137(b) was granted in a Decision on Petition dated 30 January 2006.

On 02 August 2007, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

Petition under 37 CFR 1.181

Applicants state in their present petition that a renewed petition under 37 CFR 1.47(a) was received at the United States Patent and Trademark Office on 08 June 2007. A review of the present application reveals that a renewed petition under 37 CFR 1.47(a) is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and attorney docket number. The receipt itemizes a Renewed Petition under 37 CFR 1.47(a). The receipt is stamped "Rec'd PCT/PTO 08 June 2007" across its face is sufficient to indicate that the above items were in fact received in the Office on 08 June 2007.

Renewed Petition under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor.

Applicants here have submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted to demonstrate Lawrence R. Thompson's refusal to execute the application papers is contained in the "Affidavit of Marty Kennedy" included in the petition, and the exhibits thereto. These materials provide the required firsthand

statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicants have provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed declarations executed by two of the three inventors and including an unsigned signature box identifying the nonsigning inventor (Lawrence R. Thompson). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (4) is therefore satisfied.

For the reasons stated above, it is appropriate to accept the application without the signature of Lawrence R. Thompson under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 17 February 2004 under 35 U.S.C. 363, and a date of 08 June 2007 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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